



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

BJG  
Docket No: 7861-99  
14 January 2000

CAPT [REDACTED] USMC  
[REDACTED]

Dear Cap [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 January 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 10 December 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. They were unable to find that your reviewing officer based his evaluation on the graduation rate, or that he failed to communicate his expectations, noting that you provided no statement from him. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:  
1610  
MMER/PERB  
DEC 10 1993

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION, IN THE CASE OF  
CAPTAIN [REDACTED] USMC

Ref: (a) Captain [REDACTED] DD Form 149 of 29 Sep 99  
(b) MCO P1610.7E

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 30 November 1999 to consider Captain [REDACTED] petition contained in reference (a). Removal of the Reviewing Officer's comments from the fitness report for the period 980711 to 990402 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner argues that Colonel [REDACTED] comments are inconsistent with the Reporting Senior's evaluation and were not based on a standard known to any commander. To support his appeal, the petitioner furnishes his own statement, a copy of a Navy and Marine Corps Commendation Medal citation for the period June 96 through June 99, copies of other fitness reports, and copies of bar charts depicting his Company's performance while he was in command.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. At the outset, the Board emphasizes that reference (b) contains no requirement for the Reviewing Officer's comments/evaluation to be consistent with or mirror those of the Reporting Senior. In fact, it is expected that there will be those occasions when differences of opinion exist between reporting officials. The added emphasis placed on the role of the Reviewing Officer by the reference is indicative of that premise -- Reviewing Officers are directed to not concur with evaluations they believe are inflated or inaccurate. While in this particular case the Reviewing Officer does concur, he is clearly entitled to render his own unencumbered opinion.

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b. While the copies of the training logs (bar graphs), past fitness reports, and the end of tour award are all representative of commendable service and performance, they do not, in and of themselves, invalidate the Reviewing Officer's observations. There is no evidence to support the contention that the evaluation was based on criteria unknown to the petitioner, or that the Reviewing Officer was impartial or unjust. In fact, the petitioner himself indicates that "the Reviewing Officer's comments were fair."

4. The Board's opinion, based on deliberation and secret ballot vote, is that the Reviewing Officer's comment included with the contested fitness report should remain a part of Captain [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]  
Colonel, U.S. Marine Corps  
Deputy Director  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps